

CONTRACT

SUPPLY FRAMEWORK CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

FINANCED FROM THE GENERAL BUDGET OF THE UNION

The European Union Capacity Building Mission in Somalia (hereinafter referred to as "EUCAP Somalia"), represented by the Head of Mission, Mr. Christopher Reynolds,

('the Contracting Authority'),

of the one part,

and

SOM MARITIME SECURITY ORGANIZATION

[REDACTED]

[REDACTED]

('the Contractor'),

of the other part,

have agreed as follows:

"MERCHANT VESSELS BOARDING & TRAINING CAPACITY FWC 2020" **REF. PROC_ECS_2020_103_RE-LAUNCH**

(1) Subject

- 1.1 The subject of the Framework Contract (FWC) shall be the six (6) months' supply, delivery, unloading and installation of the following supplies:

Merchant Vessels Boarding and Training Capacity

Lot no 1: Training Facility in Berbera

Lot no 2: Training Facility in Bosasso

to be implemented through Purchase Orders.

Signature of the Framework Contract imposes no obligation on the Contracting Authority to purchase. Only performance of the FWC through approved Purchase Order is binding on the Contracting Authority.

Signature of the Framework Contract does not confer any exclusive right on the Contractor to provide the supplies that are the subject of the Framework Contract.

The FWC shall be implemented by Purchase Order to be sent exclusively by e-mail. Whenever the Contracting Authority intends to procure supplies pursuant to this Framework Contract, it shall send a scanned signed Purchase Orders to the Contractor.

The Contractor must, within two working days after submission from the Contracting Authority, either decline the request or confirm to the Contracting Authority the execution of the request. The two working days' response time shall be based on normal business hours of the Contracting Authority for Somalia: Sunday–Thursday, 09:00–16:00 GMT+3, except local national holidays.

The process culminates in the approval of the Purchase Order, or in its withdrawal. The Contractor shall not start with the provision of any supply before the Contracting Authority submits an approved and countersigned Purchase Order. If the Contractor repeatedly refuses to sign Purchase Orders or repeatedly fails to send them back on time, the Contractor may be considered in serious breach of its obligations under this Framework Contract as set out in Article 36.2(a) of the General Conditions.

The place of acceptance of the supplies shall be for Lot 1-Berbera and Lot 2-Bosasso; the time limits for delivery of Lot 1 and Lot 2 shall be as per the Annex II+III Technical Specifications Technical Offer and the Incoterms applicable shall be DAP¹. The period of implementation of tasks shall be in accordance with Art. 19 of the Special Conditions.

- 1.2 The Contractor shall comply strictly with the terms of the Special Conditions and the technical annex.

(2) Price

- 2.1 The price of the supplies shall be that shown on the Financial Offer (specimen in Annex IV). The total (theoretically achievable) maximum contract price shall be EUR 233,244.00.
- 2.2 Payments shall be made in accordance with the Special Conditions (Articles 26 to 28).
- 2.3 The fees/unit-prices referred to the Budget Breakdown (Annex IV) shall be the sole remuneration owed by the Contracting Authority under the Framework Contract.

(3) Order of precedence of contract documents

The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:

- the Contract Agreement;
- the Special Conditions;
- the General Conditions (Annex I);
- the Technical Specifications [including clarification before the deadline for submitting tenders and minutes of the information meeting/site visit (Annex II);
- the Technical Offer (Annex III [including clarifications from the tenderers provided during tender evaluation]);
- the Budget Breakdown (Annex IV);
- other specified forms and other relevant documents (Annex V).

These above listed documents make up the contract. They shall be deemed to be mutually explanatory. In cases of ambiguity or divergence, they shall prevail in the order in which

¹DAP (Delivered At Place)- Incoterms 2010 International Chamber of Commerce - <http://www.iccwbo.org/incoterms/>

they appear above. Addenda shall have the order of precedence of the document they are amending.

(4) Language of the contract

The language of the contract and of all written communications between the Contractor and the Contracting Authority and/or the project manager shall be English.

(5) Other specific conditions applying to the contract

(5.1) Tax arrangements

EUCAP Somalia is tax exempt in the Federal Republic of Somalia, Puntland State of Somalia and in Somaliland; therefore, all applicable duties and taxes are to be excluded from the Budget (Annex IV).

(5.2) Supplement clause

Purchase Orders shall be established on the basis of the fee rates/unit prices indicated in the Budget (Annex IV). However, the Contracting Authority may request the Contractor to propose supplementary provisions of the same type as those listed in the Technical Specifications and Technical Offer (Annex II+III) and/or Budget breakdown (Annex IV). The supplementary elements may not depart from the essential terms fixed in the Framework Contract and may be requested only if they are necessary for the execution of the contractual provisions. Supplementary elements will be ordered on the basis of a quote provided by the Contractor, which shall require prior approval by the Contracting Authority.

(5.3) Termination clause

The continuation of the Framework Contract beyond the 31/12/2020 shall be conditioned by the extension of the mandate of EUCAP Somalia for the contractual period beyond the 31/12/2020 and the signing of a Delegation Agreement between the European Commission and EUCAP Somalia covering the contractual period within its maximum extension.

In case of non-renewal of EUCAP Somalia's mandate or lack of signature of Delegation Agreement with the European Commission, the Framework Contract shall be automatically terminated by the Contracting Authority without obligation to respect the notice stipulated in the aforementioned Art. 19. Should the Framework Contract be terminated for such reason, the Contracting Authority shall inform the Contractor with no delay on the relevant decision of the European Union authorities.

Specific contracts or Purchase Orders already signed and accepted by the Contractor shall not be affected by the automatic termination of the Framework Contract and the services ordered shall be regularly paid by the Contracting Authority in accordance with the Article 29 of the Special Conditions.

(5.3) Oppressive clause

The Contractor is well aware of and expressly accepts all the clauses and conditions contained in the Contract, both in the Special and the General Conditions thereof, including the ones entailing particularly onerous and/or demanding commitments and responsibilities.

Done in English in three originals: two originals for the Contracting Authority and one original for the Contractor.

For the Contractor

Name: 

Title: Director of Operation
SMSO

Signature: Monday 6 July 2020

Date:



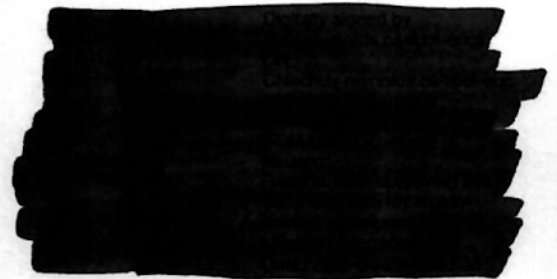
For the Contracting Authority

Name: Christopher Reynolds

Title: Head of EUCAP
Somalia Mission

Signature:

Date:



SPECIAL CONDITIONS

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These conditions amplify and supplement, if necessary, the general conditions governing the contract. Unless the special conditions provide otherwise, those general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the articles of the general conditions. In exceptional cases, and with the authorisation of the appropriate Commission departments, other clauses may be added to cover specific situations.

Article 2 Language of the contract

- 2.1 The language used shall be English.

Article 4 Communications

- 4.1 Any written communication relating to this Contract between the Contracting Authority and/or the Project Manager, on the one hand, and the Contractor on the other must state the Contract title and identification number, and must be sent by e-mail or by hand.

For the Contracting Authority:

Name:	EUCAP Somalia Project Manager, represented by [REDACTED]
Address:	European Union Capacity Building Mission in Somalia Field Office Hargeisa, Hargeisa, Somaliland
Telephone:	[REDACTED]
E-mail:	[REDACTED]

For the Contractor:

Name:	[REDACTED]
Address:	[REDACTED]
Telephone:	[REDACTED]
E-mail:	[REDACTED]

N.B.: All invoices shall be submitted via email to invoicing@eucap-som.eu cc EUCAP Somalia Project Manager (see Art. 26.5).

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Article 10 Origin

No rules of origin apply.

Article 11 Performance guarantee

No performance guarantee is required.

Article 12 Liabilities and insurance

Article 12.2(a), paragraph 2, of the General Conditions (Annex I): by derogation, the Contractor shall provide the Contracting Authority upon request with all cover notes and/or insurance certificates showing that the Contractor's obligations relating to insurance are fully respected.

Article 12.2(b), paragraph 2, of the General Conditions (Annex I): the Contractor shall provide transport insurance to the extent that it assumes transportation risks, in accordance with the applicable delivery Incoterms (see Art. 1 of the Contract agreement).

Article 13 Programme of implementation of tasks

13.2 See Annex II+III Technical Specifications +Technical Offer.

Article 18 Commencement order

- 18.1 The implementation of the tasks shall commence on the date of signature of the Contract by the latter of the two parties.

Article 19 Period of implementation of the tasks

- 19.1 The period for implementing the tasks shall be specified in each approved Purchase Order; as per Annex II+III Technical Specifications +Technical Offer. The period of the Framework Contract implementation shall end on 31 December 2020.

Article 25 Inspection and testing

- 25.1. The Contractor shall permit and cooperate with any person or entity authorised by the Contracting Authority to perform inspection functions and to carry out periodic inspections and verifications of the supplies provided by Contractor, or third part supplies utilized by Contractor in performance of the contract.

Article 26 General principles for payments

- 26.1 Payments shall be made in EUR.

Payments shall be authorised and made by EUCAP Somalia – Finance Unit.

- 26.3 No pre-financing is foreseen.

- 26.5 Payments shall be made as follows: 100% of the Contract prices within 30 days from the date on which an admissible invoice is registered by the Contracting Authority, together with the request for provisional acceptance as per article 31.2.

The invoice shall be deemed admissible only if it is submitted via email to invoicing@eucap-som.eu and if it concerns implemented tasks and prices as per the Contract and meets all the following essential requirements:

- i) Contract reference (i.e., PROC_ECS_2020_103).
- ii) Date and unique identification number.
- iii) Contractor's legal name, address and contact information.
- iv) Contracting Authority's name, address and contact information.
- v) Clear description of the tasks implemented.
- vi) Date of delivery of the goods as per the applicable Incoterms (DAP).
- vii) If applicable, period of implementation of the services.
- viii) Quantities (A_i), unit prices (B_i) and sub-total prices ($C_i = A_i * B_i$) of the tasks implemented.
- ix) Total amount of the invoice ($D = C_1 + C_2 + \dots$) and applicable VAT regime.

- 26.9 The contract prices are deemed fixed for the entire duration of the Contract. No price revision clause applies.

Article 28 Delayed payments

- 28.2 By derogation from Article 28.2 of the general conditions, once the deadline laid down in Article 26.3 has expired, the Contractor shall, upon demand, be entitled to late-payment interest at the rate and for the period mentioned in the general conditions. The demand must be submitted within two months of receiving late payment.

Article 31 Provisional acceptance

The certificate of provisional acceptance must be issued using the template in Annex C11.

- 31.2. By derogation, the Contractor may apply, by notice to the project manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The project manager shall within 45 days of receipt of the Contractor's application either:

- issue the certificate of provisional acceptance to the Contractor with a copy to the Contracting Authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the Contract and ready for provisional acceptance; or
- Reject the application, giving his reasons and specifying the action which, in his opinion, is required of the Contractor for the certificate to be issued.

The Contracting Authority's time limit for issuing the certificate of provisional acceptance to the Contractor shall not be considered included in the time limit for payments indicated in Article 26.3.

Article 32 Warranty obligations

- 32.1. The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise

provided in the contract. The Contractor shall further warrant that all supplies shall have no defect arising from design, materials or workmanship, except insofar as the design or materials are required by the specifications, or from any act or omission, that may develop under use of the supplies in the conditions obtaining in the country of the Contracting Authority.

- 32.6 The Contractor shall replace the items under warranty within 60 days from the date of request by the Contracting Authority.
- 32.7 The warranty of the "Ship-in-a-Box" training facility must remain valid for one (1) year from the date of its acceptance. The warranty of the Spare parts must remain valid for a minimum period of three (3) years from the date of acceptance.

Article 40 Settlement of disputes

- 40.1 The parties shall make every effort to settle amicably any dispute relating to the Contract which may arise between them.

By derogation of the general conditions, Article 40.4 shall be replaced by the following:

In default of amicable settlement, the parties may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of conclusion of this agreement. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either party. The arbitrator's decision shall be binding on all parties and there shall be no appeal.

Article 41 Applicable law

- 41.1 This Contract shall be governed by the law of the country of the Contracting Authority or, where the Contracting Authority is the European Commission, by the applicable European Union law complemented where necessary by the law of Belgium.

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